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IN THE

Supreme Court of the United States

October Term, 1960

No. 460

ANTHONY PETER RIELA,

Appellant,

—v.—

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent.

APPELLANT'S REPLY BRIEF

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October Term, 1960

No. ~~460~~ 445

ANTHONY PETER RIELA,

Appellant,

—against—

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent.

APPELLANT'S REPLY BRIEF

POINT I

The New York statutes involved were specifically urged as unconstitutional.

This reply brief is necessitated solely because of the misstatements of fact contained in the motion to dismiss.

The following are major facts set forth in the record, contained in the Jurisdictional Statement, and misrepresented by the respondent:

(1) Penal Law § 2447 was specifically urged as unconstitutional at pages 305 and 402.*

(2) § 618-a Code of Criminal Procedure was specifically urged as unconstitutional at page 405.

* All pages refer to the certified record on appeal to the Court of Appeals.

(3) The joint application of P.L. 2447 and § 618-a, C.C.P. was specifically urged as unconstitutional at pages 405-406.

(4) § 600 (6) Penal Law was specifically claimed to be applied unconstitutionally at pages 421-422.

The amended remittitur (Jur. State. p. 9a) clearly sets forth the constitutional issues considered by the Court of Appeals.

On page 5 of the motion to dismiss, reference is made to the Appendix to People's Brief in Opposition to Petition for Certiorari. This exhibit is an order of the New Jersey Essex County Court, allegedly stating that a hearing was held. *However, it is not a part of the certified record, nor was it ever introduced into evidence by the People.* It is now urged as evidence of a fact which the certified record does not contain. It should be totally disregarded.

POINT II

The federal questions are substantial and require consideration by this Court.

Pages 10 through 18 of the Jurisdictional Statement set forth in detail the importance of the questions involved.

As recently as October 10, 1960, this Court granted review in *Slagle* v. *Ohio*, Case No. 105, 29 L. W. 3093. Questions 2 and 3 in *Slagle* are substantially similar to questions 1 and 2 herein (p. 4, Jur. State.). The instant case has further uniqueness in that the Court of Appeals opinion herein is *contra* to *Brown* v. *United States*, 359 U. S. 41, 49, and *Quinn* v. *United States*, 344 U. S. 155, 167.

Further, the appellant here is a New Jersey resident who is charged with contempt of a New York County court, and not contempt of a grand jury. Despite his plea of privilege against self-incrimination and the failure of the Court to direct him to answer or to hear the merits of his plea, the Court ruled that a witness who is a New York non-resident has sufficient protection with New York immunity.

CONCLUSION

The motion to dismiss the Jurisdictional Statement should be denied.

Respectfully submitted,

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